IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1217 OF 2004

WITH

CIVIL APPLICATION NO. 3122 OF 2005

Sayed Navab s/o. Sayed Badruddin ..Appellant

versus

Municipal Corporation of Gr. Bombay ..Respondents

Ms. Vidya Manjrekar for the Appellant.

Mr. A. Y. Sakhare with Mr. J. J. Xavier for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 25TH JULY,2005

ORAL ORDER :

1. Heard learned counsel for the parties.

2. Original Plaintiff whose suit was dismissed has filed this appeal. Prayers in the suit were that the Corporation be directed to reconstruct the structure of the plaintiff and he should also be compensated for causing damage to the material and taken by the defendants.

3. When the matter appeared before me earlier, I asked the Appellant's Advocate to produce photographs of the present structure. She had tendered two photographs, one showing the tent and bikes inside in the suit structure, the other is structure of somebody else.

4. Counsel for the MCGM has also tendered four photographs. It is absolutely clear from the photographs of the appellant and the MCGM that the appellant is a rank trespasser on road, his structure was demolished five times by the MCGM. As stated by the Advocate for the MCGM now this temporary tent to carry on his business is erected taking advantage of the statusquo order.

5. Counsel for the appellant contended that the MCGM should have granted to the appellant alternate accommodation and that the land over which the structure is erected is a private land. The counsel for the respondents has shown me a map from which and the photographs referred to above it is clear that the structure of the appellant is clearly and squarely on the road. The trial court rightly dismissed the suit. No interference is called for. Appeal is dismissed along with the Civil Application. Statusquo granted is vacated. Prayer for continuation of statusquo is rejected.

25.7.2005 (D.G. DESHPANDE, J.)